

**From:** "Carl Johnston" <cjohnsto@osmre.gov>  
**To:** <DARONHADDOCK@utah.gov>  
**Date:** 2/19/04 11:07AM  
**Subject:** Mine Plan Determination - Dugout Canyon

Attached is OSM's final decision regarding the need for a Mining Plan Modification for the above subject. A signed copy will be sent to you in today's mail.

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

No responses to this transmittal are necessary.

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UT-0041

February 19, 2004

Utah Division of Oil, Gas, & Mining  
Coal Regulatory Program  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

RE: Canyon Fuel Company, LLC "Dugout Canyon" Mine - Application for a Permit  
Revision, SITLA Lease Amendment

Dear Sir or Madam:

This in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) January 20, 2004, request for a decision, under 30 CFR 944.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for a Permit Revision, SITLA Lease Amendment, has determined that it proposes to add approximately 2,360 acres to the Dugout Canyon mine, Utah State permit C/007/039. Of those 2,360 acres, the majority are a part of State Lease ML-48435-OBA east of the existing permit area. The lands within this lease are subject to the Memorandum of Understanding between the Utah School and Institutional Trust Lands Administration, the United States Department of Agriculture, and the United States Department of the Interior, (MOU). Consequently, since these lands are subject to that MOU, OSM has determined that they do not meet the requirements of 30 CFR 746.11(a) and 746.18(d). Therefore, the SITLA Lease Amendment regarding State Lease ML-48435-OBA does not constitute a mining plan action requiring Secretarial approval.

Of the 2,360 acres to be added to the existing permit in the SITLA Lease Amendment, approximately 57 acres are contained within a Bureau of Land Management (BLM) Right-of-Way in Federal Lease UTU-77985 and another 2.5 acres in a BLM parcel in Section 23, Township 13 South, Range 12 East. The inclusion of these Federal lands in the approved State permit meet the criteria under 30 CFR 746.18(d)(3) and therefore, do not constitute a mining plan action requiring Secretarial approval.

Finally, the SITLA Lease Amendment revises the text in Chapters 1 through 7 of the approved to incorporate revised text to address and discuss previously approved permit revisions and bring the text of the permit up-to-date. Revisions to the text of the approved permit does not meet the requirements of 30 CFR 746.11(a) and 746.18(d). Therefore, the SITLA Lease Amendment regarding text revisions does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for a Permit Revision, SITLA Lease Amendment with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the January 20, 2004 request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

In an electronic transmittal dated January 21, 2004, the U.S. Forest Service stated that it had no comments regarding the SITLA Lease Amendment.

The Bureau of Land Management did not provide any comments in the thirty day time frame established by the Federal regulations under 30 CFR 944.30, Article VI. D.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 844-1400, extension 1500.

Sincerely,

Ranvir Singh  
Manager, Northwest Branch

cc: Denver Field Division